

Comments

The enclosed is responsive to the Examiner's Office Action mailed on August 12, 2004. At the time the Examiner mailed the Office Action claims 1-5,7,9-14,16 and 18-69 are pending. By way of the present response the Applicant has: 1) canceled claims 2, 9, 11, 19, 20, 24, 25, 29, 30, 34, 35, 39-42, 45-48, 51-53, 55-59, 61, 62, 66, 67; 2) amended claims 1, 10, 18, 21, 22, 23, 26, 27, 28, 31, 32, 33, 36, 37, 38, 43, 44, 50, 54, 60, 63, 64, 65, 68 and 69. As such claims 1, 3-5, 7, 9, 10, 12-14, 16, 18, 21-23, 26-28, 31-33, 36-38, 43, 44, 49, 50, 54, 60, 63, 64, 65, 68 and 69 are now pending. The Applicant respectfully requests reconsideration of the present application and the allowance of claims 1, 3-5, 7, 9, 10, 12-14, 16, 18, 21-23, 26-28, 31-33, 36-38, 43, 44, 49, 50, 54, 60, 63, 64, 65, 68 and 69.

Rejections under 35 USC 112, para. 2

The Examiner has rejected independent claims 18, 23 and 60 under 35 USC 112, paragraph 2, firstly, because the phrase "said operating not" lacks antecedent basis, and, secondly, because the phrase "discouraging the occurrence of an error" is vague. See, Examiner's Office Action mailed 8/12/04, pg. 2. The Applicant believes the Examiner is mistaken with respect to the first issue and has amended claims 18, 23 and 60 to resolve the second issue.

Each of independent claims 18, 23 and 60 presently recite the following language (emphasis added):

operating a card having volatile memory space partitioned at least into a protected memory region and a non protected memory region, **said operating not:**
diminishing the likelihood of an error within said protected memory region any more than the likelihood of an error within said non protected memory region is diminished;

The Applicant respectfully submits that the bold faced type above indicates that the word "operating" in the objected-to phrase "said operating not" has proper antecedent basis. The Applicant has moreover amended independent claims 18, 23 and 60 to recite "diminishing the likelihood of an error" rather than "discouraging the occurrence of an error". The phrase

said operating not . . . diminishing the likelihood of an error within said protected memory region any more than the likelihood of an error within said non protected memory region is diminished

is written so as to recite operation of a card that does not comprise error preventive packaging that surrounds a protected memory region but not a non protected memory region. In light of these comments, the Applicant respectfully submits that the Examiner's rejections under 35 USC 112, paragraph 2 have been acceptably addressed and that independent claims 18, 23 and 60 are presently in compliance with the requirements of 35 USC 112, paragraph 2.

Rejections under 35 USC 103

The Examiner has rejected independent claims 1, 10, 28, 33, 38, 44, 50 and 65 under 35 USC 103 as being obvious in light of the combination of U.S. Patent 4,751,670 (hereinafter, "the '670 patent") and the Applicant's admitted prior art. See, Examiner's Office Action mailed 8/12/04, pg. 2. Notably, the '670 patent appears to

teach a system in which a non-volatile protected memory region preserves its stored information over the course of a system reset. See, Col. 3, lines 18-22 and Col. 4, lines 20-23 of the '670 patent. Moreover, the '670 patent appears to teach permitting a reset/initialization process only if the number of previous disruptions that caused a prior reset/initialization process is beneath a value N. See, 9, Col. 9, lines 11-22.

With respect to independent claims 1 and 10, taking both the non-volatile protected memory region and the gated reset/initialization process teachings of the '670 patent in a light most favorable to the Examiner's position so as to be sufficient to cover within a zone of obviousness a claim directed to the performing of a hitless rebuild if a threshold has not been reached, the Applicant notes that independent claim 1 is presently allowable for at least two reasons: 1) the Examiner's rejection has failed to cite or discuss any prior art that teaches or suggests the determination of whether or not an error is "ignorable"; and, 2) claims 1 and 10 presently recite a process used to effect preservation of information stored in a volatile memory over the course of an initialization process ("protecting a portion of the volatile memory from access by the processing unit during . . . initialization [of the volatile memory]"). The Applicant therefore respectfully submits that independent claims 1 and 10 are allowable over the combination of the '670 patent and the Applicant's admitted prior art for at least these reasons.

With respect to independent claims 28, 33, 50 and 65, each of these claims affirmatively recites "[a] card comprising volatile memory, [the] volatile memory comprising a protected memory region and a non protected memory region".

Because the '670 patent fails to contemplate a protected memory region implemented with volatile memory (as discussed above with respect to claims 1 and 10), the Applicant respectfully submits that independent claims 28, 33, 50 and 65 are patentable over the Examiner's combination of the '670 patent and the Applicant's admitted prior art.

With respect to independent claims 38 and 44, each of these claims recite a process used to effect preservation of information stored in a volatile memory over the course of an initialization process ("[the] instructions are written to be unable to invoke memory addresses for a segment of [the] memory where [the] . . . information resides so as to make [the] segment of [the] memory inaccessible during [the] re-initializing"). Because the '670 patent fails to contemplate processes used to effect preservation of information stored in volatile memory (as discussed above with respect to claims 1 and 10), the Applicant respectfully submits that independent claims 38 and 44 are patentable over the Examiner's combination of the '670 patent and the Applicant's admitted prior art.

The Applicant takes note that the Examiner has used U.S. Patent 6,324,644 B1 (hereinafter, "the Rakavy reference") as a basis for rejecting dependent claims directed to volatile memory (See, Examiner's Office Action mailed 8/12/04, pg. 8). The Applicant respectfully submits that the Examiner's use of Rakavy to cover a claim element directed to preservation of information stored in volatile memory over the course of an initialization process is clearly improper. The volatile memory of Rakavy cited by the Examiner (random access memory 120 of Fig. 2 of Rakavy) is never described in Rakavy as preserving information over the course of an

initialization process, but rather, appears to be a typical system memory. See, Col. 5, lines 45-52 of Rakavy.

As stated by the Applicant in the Applicant's Office Action response mailed on March 20, 2003, the Rakavy reference appears to be (emphasis original):

devoted to teaching the use or loading of software for a computing system whose operating system is not functional; while, the claim element of interest is devoted to memory information that is preserved during a software re-initialization process

Applicant's Office Action response mailed 3/20/03, pg. 18.

Because the Rakavy reference falls far short of being sufficient to cover at least those aspects of the Applicant's independent claims that render them patentable over the '670 patent and the Applicant's admitted prior art, the Applicant respectfully submits that the Rakavy reference is of no effect with respect to the patentability of the Applicant's independent claims.

Closing Remarks

Because the Applicant has demonstrated the patentability of all pending independent claims, the Applicant respectfully submits that all pending claims are allowable. The Applicant's silence with respect to certain dependent claims should not be construed as an admission by the Applicant that the Applicant is complicit with the Examiner's rejection of these claims. Because the Applicant has demonstrated the patentability of the independent claims, the Applicant need not substantively address the theories of rejection applied to the dependent claims.

If there are any additional charges, please charge Deposit Account No. 02-2666. If a telephone interview would in any way expedite the prosecution of this application, the Examiner is invited to contact Robert B. O'Rourke at (408) 720-8300.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: _____

1/12/05



Robert B. O'Rourke
Reg. No. 46,972

12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025-1030
(408) 720-8300